

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED

May 17, 2011

In the Matter of A. T. PROW, Minor.

No. 300559

Wayne Circuit Court

Family Division

LC No. 08-480732

Before: CAVANAGH, P.J., and TALBOT and STEPHENS, JJ.

PER CURIAM.

Respondent-mother appeals as of right from the trial court order terminating her parental rights to the minor child under MCL 712A.19(b)(3)(a)(ii), (c)(i), (g), (j), and (k)(i).¹ We affirm.

Before terminating a respondent's parental rights, the trial court must make a finding that at least one of the statutory grounds under MCL 712A.19b(3) has been established by clear and convincing evidence. *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010). The trial court must order termination of parental rights if it finds that a statutory ground was proven and termination is in the child's best interests. MCL 712A.19b(5). This Court reviews parental rights termination cases for clear error. MCR 3.977(K); *In re Mason*, 486 Mich at 152. To warrant reversal, the trial court's decision must be more than maybe or probably wrong. *In re Williams*, 286 Mich App 253, 271; 779 NW2d 286 (2009). Clear error exists "if the reviewing court has a definite and firm conviction that a mistake has been committed, giving due regard to the trial court's special opportunity to observe the witnesses." *In re BZ*, 264 Mich App 286, 296-297; 690 NW2d 505 (2004).

The trial court did not clearly err in finding that MCL 712A.19b(3)(c)(i), (g), and (j) were established by clear and convincing evidence. The conditions that led to petitioner's intervention included respondent's longstanding substance abuse, chronic mental illness, unstable housing, and financial instability. Respondent had more than two years to overcome her drug addiction, manage her bipolar disorder, provide a stable home environment, and achieve financial stability. There was substantial evidence that petitioner provided respondent with ample services to facilitate reunifying the family. Offered services included psychological evaluation and mental

¹ The parental rights of the child's father were also terminated in the same order, but he is not a party to this or any other appeal. The trial court did not delineate which of the statutory sections applied to which parent. It is probable that MCL 712A.19b(3)(a)(ii) and (k)(i) applied to the father, and not to respondent.

health assessment through the Guidance Center, individual and family therapy, parent mentoring, parenting time, transportation assistance, random drug screening, and housing assistance.

The court properly concluded that respondent had not complied with her treatment plan. Specifically, she failed to (1) successfully complete and benefit from individual counseling and parenting classes, (2) maintain stable, suitable housing, (3) maintain regular, legal employment, (4) maintain regular weekly contact with petitioner, and (5) regularly attend court-ordered parenting time. Most importantly, respondent failed to complete substance abuse treatment and follow all recommendations. The court correctly found that respondent had a chronic substance abuse and mental illness history. Clearly, respondent failed to address the issues that brought her child before the court. The trial court heard persuasive testimony from the caseworker that, despite support services, respondent's behaviors and drug dependence remained unchanged. These proofs similarly satisfied the other statutory basis for termination. Although respondent had not abused drugs for one month before trial, the court record, as a whole, supported a finding that respondent would be unlikely to maintain her sobriety in the long term.

The court also did not err in its determination that termination of respondent's parental rights was in the child's best interests. MCL 712A.19b(5). Respondent offered some proof that she was able to care for the child. She behaved appropriately during visitations and had bonded with her child. For these reasons, respondent implicitly argues that it was against the child's best interests to terminate her parental rights. This argument is groundless. While it was undisputed that respondent behaved appropriately during visitations, her bond with the child was tenuous at best. First, the child had spent all but two weeks of his life in foster care, and respondent missed 76 weekly visits with her child over a 26-month period. Respondent failed to visit her child for almost a year before the termination hearing. Also, petitioner reported that the child had bonded with the foster parent, not respondent. The trial court correctly ruled that terminating respondent's parental rights was in the child's best interests.

Respondent asserts that she was unable to timely comply with her parent-agency agreement because of her poor health and her need to care for her ill mother. At the time of the termination hearing, respondent argues that she demonstrated her determination and ability to work toward reunification because of her improved health. Again, this argument does not square with the trial court record. Respondent's caseworker testified that she was able to verify that respondent was hospitalized on two occasions for some type of illness. The court reasonably concluded that these brief hospital stays, which occurred within months of the termination hearing, did not vitiate respondent's noncompliance with the treatment plan over a 26-month period. For similar reasons, the court did not err in finding that respondent's claim that she was unable to participate in substance abuse treatment because she was taking care of her sick mother lacked merit. Respondent testified that her mother's boyfriend provided most of the care. Moreover, the caseworker was unable to verify that respondent's mother needed respondent's help because her mother refused to speak with the caseworker. The court reasonably concluded that respondent's claim of having to care for her ailing mother, which came late in her case, was just one of a string of excuses for not seeking drug rehabilitation.

Lastly, respondent argues that petitioner failed to comply with its statutory duties to assist her in reuniting with her child. This argument is also meritless. It is well established that petitioner must make reasonable efforts to rectify conditions, to reunify families, and to avoid

termination of parental rights. MCL 712A.18f; MCL 712A.19(7); *In re Terry*, 240 Mich App 14, 25-26; 610 NW2d 563 (2000); see, also, MCL 712A.19b(5). The trial court record does not support respondent's claim that she was left to her own devices to obtain services for her drug addiction and bipolar disorder. The evidence showed that petitioner offered respondent inpatient substance abuse treatment at least nine times over the course of 11 months. Also there was clear evidence that petitioner offered counseling and medication review services through the Guidance Center to address respondent's bipolar disorder. The trial court properly concluded, during five periodic dispositional review hearings and at the termination hearing, that petitioner made reasonable efforts to preserve and reunify respondent with her child. Any inadequate mental health treatment was the direct result of respondent's choices and actions and not because of any shortfall by petitioner. The law can and does impose obligations on petitioner to offer services to reunite families but cannot mandate desired outcomes that are determined, in large measure, by the participant's motivation and attitude — attributes that respondent clearly lacked throughout this case.

Affirmed.

/s/ Mark J. Cavanagh
/s/ Michael J. Talbot
/s/ Cynthia Diane Stephens